

2013 DRAFTING REQUEST

Bill

Received: 9/12/2012	Received By: gmalaise
Wanted: As time permits	Same as LRB:
For: Administration-Budget 6-2288	By/Representing: Major
May Contact:	Drafter: gmalaise
Subject: Children - abuse and neglect	Addl. Drafters:
	Extra Copies:

Submit via email: **YES**
 Requester's email:
 Carbon copy (CC) to:

Pre Topic:

DOA:.....Major, BB0187 -

Topic:

Child abuse and neglect appeals

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gmalaise 10/17/2012	csicilia 9/26/2012	rschluet 9/26/2012	_____	sbasford 9/26/2012		State S&L
/1	gmalaise 1/15/2013	jdye 10/18/2012	phenry 10/18/2012	_____	sbasford 10/18/2012		State S&L
/2	gmalaise 1/16/2013	csicilia 1/16/2013	jfrantze 1/16/2013	_____	sbasford 1/16/2013		State S&L
/3	gmalaise	csicilia	rschluet	_____	lparisi		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/28/2013	1/16/2013	1/16/2013	_____	1/16/2013		S&L
/4	gmalaie 2/5/2013	csicilia 1/29/2013	rschluet 1/29/2013	_____ _____	srose 1/29/2013		State S&L
/5		kfollett 2/5/2013	phenry 2/6/2013	_____ _____	sbasford 2/6/2013		State S&L

FE Sent For:

<END>

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/3	gmalaise	csicilia	rschluet	_____	lparisi		State

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 2/5 Ph

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/4		csicilia	rschluet	_____	srose		State
		1/29/2013	1/29/2013	_____	1/29/2013		S&L

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/3		csicilia	rschluet	_____	lparisi		State

12/9/13

Vers. DraftedReviewed
1/16/2013Typed
1/16/2013Proofed
_____Submitted
1/16/2013JacketedRequired
S&L

FE Sent For:

/4 g's 1/29
1/29

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/1	gmalaise 1/15/2013	jdye 10/18/2012	phenry 10/18/2012	_____	sbasford 10/18/2012		State S&L
/2		csicilia 1/16/2013	jfrantze 1/16/2013	_____	sbasford 1/16/2013		State S&L

FE Sent For:

13 gys 1/16
 13
 <END>

2013 DRAFTING REQUEST

Bill

Received: 9/12/2012 Received By: gmalaise
Wanted: As time permits Companion to LRB:
For: Administration-Budget 6-2288 By/Representing: Major
May Contact: Drafter: gmalaise
Subject: Children - abuse and neglect Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to:

Pre Topic:

DOA:.....Major, BB0187 -

Topic:

Child abuse and neglect appeals

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gmalaise 10/17/2012	csicilia 9/26/2012	9/26/2012	_____	sbasford 9/26/2012		State S&L
/1		jdyer 10/18/2012	10/18/2012	_____	sbasford 10/18/2012		State S&L

FE Sent For:

1/2 gjs 11/16
12
Jb 11/16
Ju 11/16
<END>

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 Wanted: As time permits Companion to LRB:
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 May Contact: Drafter: gmalaise
 Subject: Children - abuse and neglect Addl. Drafters:
 Extra Copies:

Submit via email: YES
 Requester's email:
 Carbon copy (CC) to:

Pre Topic:

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Topic:

Child abuse and neglect appeals

Instructions:

See attached

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/P1	gmalaise	csicilia 9/26/2012	9/26/2012		sbasford 9/26/2012		State S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received:	9/12/2012	Received By:	gmalaise
Wanted:	As time permits	Companion to LRB:	
For:	Children and Families 1-4349	By/Representing:	Bob Nikolay
May Contact:		Drafter:	gmalaise
Subject:	Children - abuse and neglect	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **robert.nikolay@wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Child abuse and neglect appeals

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gmalaise	csicilia	9/26/2012	_____	sbasford		State
	9/21/2012	9/26/2012		_____	9/26/2012		S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST**Bill**

Received: 9/12/2012

Received By: gmalaise

Wanted: As time permits

Companion to LRB:

For: Children and Families 1-4349

By/Representing: Bob Nikolay

May Contact:

Drafter: gmalaise

Subject: Children - abuse and neglect

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: robert.nikolay@wisconsin.gov

Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Child abuse and neglect appeals

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	gmalaise						
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Handwritten notes and signatures:
- A large circle around the 'Typed' column header.
- 'P1 gjs' written over the 'Drafted' column.
- '9/24' written over the 'Reviewed' column.
- '12' written over the 'Typed' column.
- '9/26/12' written over the 'Typed' column.
- A signature over the 'Proofed' column.

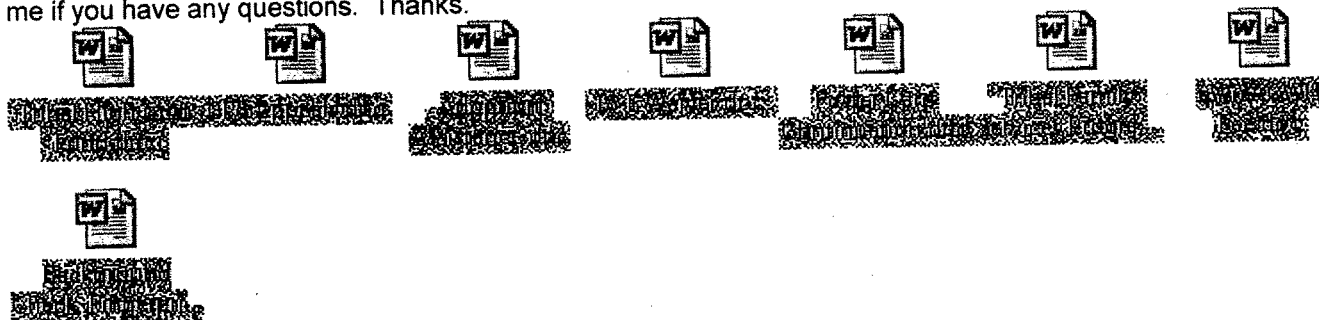
FE Sent For:

<END>

Malaise, Gordon

From: Nikolay, Robert A - DCF <Robert.Nikolay@wisconsin.gov>
Sent: Wednesday, September 12, 2012 12:22 PM
To: Malaise, Gordon
Cc: Hanaman, Cathlene
Subject: FW: 2013-15 Biennial Budget Drafting Requests for DCF

Gordon,
Attached are biennial budget drafting requests related to Chapter 48 and Chapter 20 Program 1 in DCF. Please contact me if you have any questions. Thanks.



Bob Nikolay
Budget Director
Wisconsin Department of Children & Families
(608) 261-4349

**Department of Children and Families
2013-15 Biennial Budget
Statutory Language Request**

Topic: Child Protective Services Appeals

Current Language:

Current language at s. 48.981(3)(c)5m provides that if a county, the Department, or a licensed child welfare agency under contract with the Department determines that a specific person has abused or neglected a child, that agency, within 15 days after the date of the determination, shall notify the person in writing of the determination, the person's right to appeal the determination and the procedure by which the person may appeal the determination. The person may appeal the determination in accordance with the procedures established by the department. The department shall promulgate rules establishing procedures for conducting an appeal under this subdivision. Those procedures shall include a procedure permitting an appeal under this subdivision to be held in abeyance pending the outcome of any criminal proceedings or any proceedings under s. 48.13 based on the alleged abuse or neglect or the outcome of any investigation that may lead to the filing of a criminal complaint or a petition under s. 48.13 based on the alleged abuse or neglect.

Proposed Change:

Modify the current statutory language to explicitly state that the procedure for appealing this determination should be in accordance with Ch. 227, similar to the statutory language currently in s. 48.72 regarding the denial of an application for the issuance, continuation or revocation of a child welfare or child care license.

Justification:

Wisconsin law bars certain employers from hiring or employing a person who has a substantiated child abuse or neglect finding for certain types of care giving positions. Federal courts have ruled that the states must offer individuals due process to appeal such a determination if the substantiation bars them from employment by law. Currently, Wisconsin does not have a uniform appeals process. The lack of a uniform process creates workload issues for counties and creates a potential legal liability for the Department and county agencies.

Desired Effective Date: Upon enactment

Agency Contact: Bob Nikolay
261-4349



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0066/P1

GMM.....

IN 9/21

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ys

do NOT Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a county department of human services or social services or, in Milwaukee County, DCF or a licensed child welfare agency under contract with DCF (collectively "agency") that investigates a report of suspected child abuse or neglect must determine, within 60 days after receipt of the report, whether abuse or neglect has occurred. If the agency determines that a specific person has abused or neglected the child, the person may appeal the determination in accordance with procedures established by DCF by rule. Those procedures must include a procedure permitting an appeal of a child abuse or neglect determination to be held in abeyance pending the outcome of any criminal investigation or proceedings or any investigation or proceedings under the Children's Code based on the alleged abuse or neglect.

This bill eliminates the authority of DCF to establish procedures for an appeal of a determination that a specific person has abused or neglected a child. Instead, the bill provides that such a person has the right to a hearing on that determination under procedures provided under current law for the administrative and judicial review of a contested case, which is an agency proceeding in which the assertion by one party of a substantial interest is denied or controverted by another party and in which, after a hearing required by law (contested case hearing), that substantial interest is determined by a decision or order.

*

the person presiding over
the final administrative
holds the proceeding

Under the bill, to receive a contested case hearing on a determination that a specific person has abused or neglected a child, the person must send to DCF a written request for a contested case hearing within ten days after receipt of notice of the determination. DCF then must hold the hearing within 30 days after receipt of the request for the hearing, unless the person requesting the hearing consents to an extension of that period or the contested case proceeding is held in abeyance pending the outcome of any criminal investigation or proceedings or any investigation or proceedings under the Children's Code based on the alleged abuse or neglect. Following the contested case hearing, any party to the proceeding may then obtain judicial review of ~~DCF's~~ decision in the contested case. *

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill. *

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.981 (3) (c) 5m. of the statutes is amended to read:

2 48.981 (3) (c) 5m. If the county department or, in a county having a population
3 of 500,000 or more, the department or a licensed child welfare agency under contract
4 with the department determines under subd. 4. that a specific person has abused or
5 neglected a child, ~~the county department, department or licensed child welfare~~
6 ~~agency, within 15 days after the date of the determination, the county department,~~
7 ~~department, or licensed child welfare agency~~ shall notify the person in writing of the
8 determination, the person's right to appeal a contested case hearing on the
9 determination under ch. 227, and the ~~procedure~~ procedures under subd. 5p. by which
10 the person may ~~appeal the determination, and the person may appeal the~~
11 ~~determination in accordance with the procedures established by the department~~
12 ~~under this subdivision. The department shall promulgate rules establishing~~
13 ~~procedures for conducting an appeal under this subdivision. Those procedures shall~~
14 ~~include a procedure permitting an appeal receive that hearing.~~

The person presiding
over a

Final administrative

1 5p. A person determined under subd. 4. to have abused or neglected a child has
 2 the right to a contested case hearing on that determination under ch. 227. To receive
 3 that hearing, the person must send to the department a written request for a hearing
 4 under s. 227.44 within 10 days after receipt of notice under subd. 5m of the
 5 determination. The department shall hold a hearing under s. 227.44 within 30 days
 6 after receipt of the request for the hearing unless the person requesting the hearing
 7 consents to an extension of that period or the contested case proceeding is held in
 8 abeyance as provided in this subdivision. Judicial review of the department's
 9 decision may be had by any party to the contested case proceeding as provided in ch.
 10 227. A contested case proceeding under this subdivision to ^{may hold the proceeding} ~~may~~ be held in abeyance
 11 pending the outcome of any criminal proceedings or any proceedings under s. 48.13
 12 based on the alleged abuse or neglect or the outcome of any investigation that may
 13 lead to the filing of a criminal complaint or a petition under s. 48.13 based on the
 14 alleged abuse or neglect.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321; 2005 a. 113, 232, 344, 406, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 1370 to 1373, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 76, 78, 79, 94, 185; 2011 a. 32, 81, 87.

15 **SECTION 2. 48.981 (3) (cm) of the statutes is amended to read:**

16 ~~48.981 (3) (cm) Contract with licensed child welfare agencies. A county~~
 17 ~~department may contract with a licensed child welfare agency to fulfill the county~~
 18 ~~department's duties specified under par. (c) 1., 2. b., 2m. b., 5., 5r., 6., 6m., and 8. The~~
 19 ~~department may contract with a licensed child welfare agency to fulfill the~~
 20 ~~department's duties specified under par. (c) 1., 2. a., 2m. b., 3., 4., 5., 5m., 5p., 5r., 6.,~~
 21 ~~6m., 7., 8., and 9. in a county having a population of 500,000 or more. The~~

1 confidentiality provisions specified in sub. (7) shall apply to any licensed child
2 welfare agency with which a county department or the department contracts.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105, 2003 a. 35, 279, 321; 2005 a. 113, 232, 344, 406, 434, 2005 a. 443 s. 265; 2007 a. 20 ss. 1370 to 1373, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 76, 78, 79, 94, 185; 2011 a. 32, 81, 87.

3 **SECTION 9306. Initial applicability; Children and Families.**

4 (1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The
5 treatment of section 48.981 (3) (c) 5m. ~~and (4)~~ of the statutes first applies to a notice
6 under section 48.981 (3) (c) 5m. of the statutes ~~of~~ a determination under section
7 48.981 (3) (c) 4. of the statutes ~~provided~~ ^{issued} on the effective date of this subsection.

8 (END)

Malaise, Gordon

From: Hanaman, Cathlene
Sent: Wednesday, October 17, 2012 3:41 PM
To: Malaise, Gordon
Subject: FW: [Possible SPAM] Statutory Language Drafting Request - BB0187
Importance: Low

From: katrina.major@wisconsin.gov [<mailto:katrina.major@wisconsin.gov>]
Sent: Wednesday, October 17, 2012 3:36 PM
To: Hanaman, Cathlene
Cc: Kraus, Jennifer - DOA; Major, Katrina L - DOA; Thornton, Scott - DOA
Subject: [Possible SPAM] Statutory Language Drafting Request - BB0187
Importance: Low

Biennial Budget: 2013-15

DOA Tracking Code: BB0187

Topic: CPS appeals

SBO Team: GGCF

SBO Analyst: Major, Katrina L - DOA
Phone: 608-266-2288
E-mail: katrina.major@wisconsin.gov

Agency Acronym: DCF

Agency Number: 437

Priority: Medium

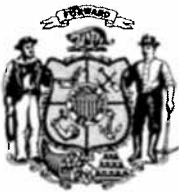
Intent:

appeal child abuser or neglector dtermination to DHA

DCF draft number 66

Attachments: False

Please send completed drafts to statlanguage@wisapps.wi.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0066/P
GMM:cjs:rs&jf

IN 10/17

keep

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

DOA Budget

x
1 AN ACT ...; relating to: the budget. ✓

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

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This bill eliminates the authority of DCF to establish procedures for an appeal of a determination that a specific person has abused or neglected a child. Instead, the bill provides that such a person has the right to a hearing on that determination under procedures provided under current law for the administrative and judicial review of a contested case, which is an agency proceeding in which the assertion by one party of a substantial interest is denied or controverted by another party and in which, after a hearing required by law (contested case hearing), that substantial interest is determined by a decision or order.

Under the bill, to receive a contested case hearing on a determination that a specific person has abused or neglected a child, the person must send to DCF a written request for a contested case hearing within ten days after receipt of notice of the determination. DCF then must hold the hearing within 30 days after receipt of the request for the hearing, unless the person requesting the hearing consents to an extension of that period or the person presiding over the contested case proceeding holds the proceeding in abeyance pending the outcome of any criminal investigation or proceedings or any investigation or proceedings under the Children's Code based on the alleged abuse or neglect. Following the contested case hearing, any party to the proceeding may then obtain judicial review of the final administrative decision in the contested case.

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3 of 500,000 or more, the department or a licensed child welfare agency under contract
4 with the department determines under subd. 4. that a specific person has abused or
5 neglected a child, ~~the county department, department or licensed child welfare~~
6 ~~agency, within 15 days after the date of the determination, the county department,~~
7 ~~department, or licensed child welfare agency~~ shall notify the person in writing of the
8 determination, the person's right to appeal a contested case hearing on the
9 determination under ch. 227, and the ~~procedure~~ procedures under subd. 5p. by which
10 the person may ~~appeal the determination, and the person may appeal the~~
11 ~~determination in accordance with the procedures established by the department~~
12 ~~under this subdivision. The department shall promulgate rules establishing~~
13 ~~procedures for conducting an appeal under this subdivision. Those procedures shall~~
14 ~~include a procedure permitting an appeal receive that hearing.~~

1 5p. A person determined under subd. 4. to have abused or neglected a child has
2 the right to a contested case hearing on that determination under ch. 227. To receive
3 that hearing, the person must send to the department a written request for a hearing
4 under s. 227.44 within 10 days after receipt of notice under subd. 5m. of the
5 determination. The department shall hold a hearing under s. 227.44 within 30 days
6 after receipt of the request for the hearing unless the person requesting the hearing
7 consents to an extension of that period or the contested case proceeding is held in
8 abeyance as provided in this subdivision. Judicial review of the final administrative
9 decision following the hearing may be had by any party to the contested case
10 proceeding as provided in ch. 227. The person presiding over a contested case
11 proceeding under this subdivision to be held may hold the proceeding in abeyance
12 pending the outcome of any criminal proceedings or any proceedings under s. 48.13
13 based on the alleged abuse or neglect or the outcome of any investigation that may
14 lead to the filing of a criminal complaint or a petition under s. 48.13 based on the
15 alleged abuse or neglect.

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17 (1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The
18 treatment of section 48.981 (3) (c) 5m. of the statutes first applies to a notice under
19 section 48.981 (3) (c) 5m. of the statutes of a determination under section 48.981 (3)
20 (c) 4. of the statutes issued on the effective date of this subsection.

21 (END)

Malaise, Gordon

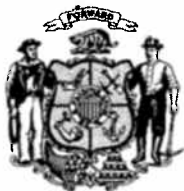
From: Major, Katrina L - DOA <Katrina.Major@wisconsin.gov>
Sent: Thursday, January 10, 2013 11:35 AM
To: Malaise, Gordon
Cc: Kraus, Jennifer - DOA
Subject: cps appeals

Hi Gordon, on the CPS appeals draft, can you make it effective January 2015 and modify it to no more than 90 days (I inserted this in the language below). Also, DCF would like to make the appeals process more explicit. Can you do a version of the following (DCF-suggested language) please. Thanks

SECTION 1. 48.981 (3) (c) 5m. of the statutes is amended to read:

48.981 (3) (c) 5m. Before If the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department determines under subd. 4. that a specific person has abused or neglected a child, the county department, department or licensed child welfare agency shall provide the person with the opportunity for an administrative review of the initial determination as provided by rules promulgated by the department. If the initial determination is adopted as a final determination, county department, department or licensed child welfare agency, within 15 days after the date of the final determination, the county department, department, or licensed child welfare agency shall notify the person in writing of the determination, the person's right to appeal a contested case hearing on the determination under ch. 227, and the procedure procedures under subd. 5p. by which the person may appeal the determination, and the person may appeal the determination in accordance with the procedures established by the department under this subdivision. The department shall promulgate rules establishing procedures for conducting an appeal under this subdivision. Those procedures shall include a procedure permitting an appeal receive that hearing.

5p. A person determined under subd. 4. to have abused or neglected a child has the right to a contested case hearing on that determination under ch. 227. To receive that hearing, the person must send to the department a written request for a hearing under s. 227.44 within 10 days after receipt date of notice under subd. 5m. of the determination. The department shall hold a hearing under s. 227.44 within 90 days after receipt of the request for the hearing unless the person requesting the hearing consents to an extension of that period or the contested case proceeding is held in abeyance as provided in this subdivision. Judicial review of the final administrative decision following the hearing may be had by any party to the contested case proceeding as provided in ch. 227. The person presiding over a contested case proceeding under this subdivision to be held may hold the proceeding in abeyance pending the outcome of any criminal proceedings or any proceedings under s. 48.13 based on the alleged abuse or neglect or the outcome of any investigation that may lead to the filing of a criminal complaint or a petition under s. 48.13 based on the alleged abuse or neglect.



State of Wisconsin
2013 - 2014 LEGISLATURE

IN 0116



LRB-0066/1

GMM:cjs:ph

stays

(2)

RMR

DOA:.....Major, BB0187 – Child abuse and neglect appeals

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

do NOT gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a county department of human services or social services or, in Milwaukee County, DCF or a licensed child welfare agency under contract with DCF (collectively “agency”) that investigates a report of suspected child abuse or neglect must determine, within 60 days after receipt of the report, whether abuse or neglect has occurred. If the agency determines that a specific person has abused or neglected the child, the person may appeal the determination in accordance with procedures established by DCF by rule. ~~Those procedures must include a procedure permitting an appeal of a child abuse or neglect determination to be held in abeyance pending the outcome of any criminal investigation or proceedings or any investigation or proceedings under the Children’s Code based on the alleged abuse or neglect.~~

This bill eliminates the authority of DCF to establish procedures for an appeal of a determination that a specific person has abused or neglected a child. Instead, the bill ~~provides that such a person~~ has the right to a hearing on that determination under procedures provided under current law for the administrative and judicial review of a contested case, which is an agency proceeding in which ~~the assertion by one party of a substantial interest is denied or controverted by another party and in which~~, after a hearing required by law (contested case hearing), ~~that~~ substantial interest is determined by a decision or order.

of a party

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Subject to certain exceptions

120

the date of the

Under the bill, to receive a contested case hearing on a determination that a specific person has abused or neglected a child, the person must send to DCF a written request for a contested case hearing within ten days after receipt of notice of the determination. DCF then must hold the hearing within 30 days after receipt of the request for the hearing, unless the person requesting the hearing consents to an extension of that period or the person presiding over the contested case proceeding holds the proceeding in abeyance pending the outcome of any criminal investigation or proceedings or any investigation or proceedings under the Children's Code based on the alleged abuse or neglect. Following the contested case hearing, any party to the proceeding may then obtain judicial review of the final administrative decision in the contested case.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.981 (3) (c) 5m. of the statutes is amended to read:

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SECTION 9306. Initial applicability; Children and Families.

(1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The treatment of section 48.981 (3) (c) 5m. of the statutes first applies to a notice under section 48.981 (3) (c) 5m. of the statutes of a determination under section 48.981 (3) (c) 4. of the statutes issued on the effective date of this subsection.

(END)

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**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0066/2ins
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(INSERT 3-15)

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5 under subd. 4. a determination that a specific person has abused or neglected a child,
6 If the county department, department, or licensed child welfare agency, within 15
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9 that person with an opportunity for a review of that initial determination in
10 accordance with rules promulgated by the department before the county
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12 determination that the person has abused or neglected a child. Within 5 days after
13 the date of the a final determination, that a specific person has abused or neglected
14 a child, the county department, department, or licensed child welfare agency shall
15 notify the person in writing of the determination, the person's right to appeal a
16 contested case hearing on the determination under ch. 227, and the procedure
17 procedures under sub. 5p. by which the person may appeal the determination, and
18 the person may appeal the determination in accordance with the procedures
19 established by the department under this subdivision. The department shall
20 promulgate rules establishing procedures for conducting an appeal under this
21 subdivision. Those procedures shall include a procedure permitting an appeal
22 receive that hearing.

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2 the right to a contested case hearing on that determination under ch. 227. To receive
3 that hearing, the person must send to the department a written request for a hearing
4 under s. 227.44 within 10 days after the date of the notice under subd. 5m. of the
5 determination. The department shall hold a hearing under s. 227.44 within 120 days
6 after receipt of the request for the hearing unless the person requesting the hearing
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8 abeyance as provided in this subdivision. Judicial review of the final administrative
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10 proceeding as provided in ch. 227. The person presiding over a contested case
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12 pending the outcome of any criminal investigation or proceedings or any
13 investigation or proceedings under s. 48.13 based on the alleged abuse or neglect or
14 the outcome of any investigation that may lead to the filing of a criminal complaint
15 or a petition under s. 48.13 based on the alleged abuse or neglect.

History: Sup. Ct. Order, 59 Wis. 2d R1, R3 (1973); 1977 c. 355; 1977 c. 447 s. 210; 1979 c. 300; 1983 a. 172, 190, 299, 538; 1985 a. 29 ss. 917 to 930m, 3200 (56); 1985 a. 176, 234; 1987 a. 27, 186, 209; 1987 a. 332 s. 64; 1987 a. 334, 355, 399, 403; 1989 a. 31, 41, 102, 316, 359; 1991 a. 160, 263; 1993 a. 16, 105, 218, 227, 230, 246, 272, 318, 395, 443, 446, 491; 1995 a. 275, 289, 369, 456; 1997 a. 27, 114, 292, 293; 1999 a. 9, 20, 32, 56, 84, 149, 192; 2001 a. 16, 38, 59, 69, 70, 103, 105; 2003 a. 33, 279, 321; 2005 a. 113, 232, 344, 406, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 1370 to 1373, 9121 (6) (a); 2007 a. 97; 2009 a. 28, 76, 78, 79, 94, 185; 2011 a. 32, 81, 87.

(END OF INSERT)

(INSERT 3-20)

16 **SECTION 9406. Effective dates; Children and Families.**

17 (1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The
18 treatment of section 48.981 (3) (c) 5m. of the statutes takes effect on January 1, 2015.

(END OF INSERT)

(INSERT A)

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From
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bill

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of this act

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provides: 1) that if an agency makes an initial determination that a specific person has abused or neglected a child, the agency must provide the person with an opportunity for a review of that initial determination in accordance with rules promulgated by DCF before the agency may make a final determination that the person has abused or neglected a child; and 2) that a person who has been determined to have abused or neglected a child

(end A insert)

Malaise, Gordon

From: Major, Katrina L - DOA <Katrina.Major@wisconsin.gov>
Sent: Wednesday, January 16, 2013 11:54 AM
To: Malaise, Gordon
Cc: Kraus, Jennifer - DOA
Subject: RE: cps appeals

Hi Gordon, I received a new version of this draft, but it shows 120 days instead of no more than 90 days. Can you please revise it to 90 days and resend? Thanks

From: Major, Katrina L - DOA
Sent: Thursday, January 10, 2013 11:35 AM
To: Malaise, Gordon (Gordon.Malaise@legis.wisconsin.gov)
Cc: Kraus, Jennifer - DOA
Subject: cps appeals

Hi Gordon, on the CPS appeals draft, can you make it effective January 2015 and modify it to no more than 90 days (I inserted this in the language below). Also, DCF would like to make the appeals process more explicit. Can you do a version of the following (DCF-suggested language) please. Thanks

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5p. A person determined under subd. 4. to have abused or neglected a child has the right to a contested case hearing on that determination under ch. 227. To receive that hearing, the person must send to the department a written request for a hearing under s. 227.44 within 10 days after receipt date of notice under subd. 5m. of the determination. The department shall hold a hearing under s. 227.44 within 90 days after receipt of the request for the hearing unless the person requesting the hearing consents to an extension of that period or the contested case proceeding is held in abeyance as provided in this subdivision. Judicial review of the final administrative decision following the hearing may be had by any party to the contested case proceeding as provided in ch. 227. The person presiding over a contested case proceeding under this subdivision to be held may hold the proceeding in abeyance pending the outcome of any criminal proceedings or any proceedings under s. 48.13 based on the alleged abuse or neglect or the outcome of any investigation that may lead to the filing of a criminal complaint or a petition under s. 48.13 based on the alleged abuse or neglect.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0066/2

GMM:cjs:jf

(3)
RJR

IN 11/16
Today

DOA:.....Major, BB0187 – Child abuse and neglect appeals

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

do NOT gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a county department of human services or social services or, in Milwaukee County, DCF or a licensed child welfare agency under contract with DCF (collectively “agency”) that investigates a report of suspected child abuse or neglect must determine, within 60 days after receipt of the report, whether abuse or neglect has occurred. If the agency determines that a specific person has abused or neglected the child, the person may appeal the determination in accordance with procedures established by DCF by rule.

This bill eliminates the authority of DCF to establish procedures for an appeal of a determination that a specific person has abused or neglected a child. Instead, the bill provides: 1) that if an agency makes an initial determination that a specific person has abused or neglected a child, the agency must provide the person with an opportunity for a review of that initial determination in accordance with rules promulgated by DCF before the agency may make a final determination that the person has abused or neglected a child; and 2) that a person who has been determined to have abused or neglected a child has the right to a hearing on that determination under procedures provided under current law for the administrative and judicial review of a contested case, which is an agency proceeding in which, after a hearing required by law (contested case hearing), a substantial interest of a party is determined by a decision or order.

90
Under the bill, to receive a contested case hearing on a determination that a specific person has abused or neglected a child, the person must send to DCF a written request for a contested case hearing within ten days after the date of the notice of the determination. Subject to certain exceptions, DCF then must hold the hearing within ~~120~~ days after receipt of the request for the hearing. Following the contested case hearing, any party to the proceeding may then obtain judicial review of the final administrative decision in the contested case.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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6 If the county department, department, or licensed child welfare agency, within 15
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5 ~~receive that hearing.~~

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17 pending the outcome of any criminal investigation or proceedings or any
18 investigation or proceedings under s. 48.13 based on the alleged abuse or neglect or
19 the outcome of any investigation that may lead to the filing of a criminal complaint
20 or a petition under s. 48.13 based on the alleged abuse or neglect.

21 **SECTION 9306. Initial applicability; Children and Families.**

22 (1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The
23 treatment of section 48.981 (3) (c) 5m. of the statutes first applies to a notice under
24 section 48.981 (3) (c) 5m. of the statutes of a determination under section 48.981 (3)
25 (c) 4. of the statutes issued on the effective date of this subsection.

SECTION 9406. Effective dates; Children and Families.

(1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The treatment of section 48.981 (3) (c) 5m. of the statutes and SECTION 9306 (1) take effect on January 1, 2015.

(END)

Malaise, Gordon

From: Major, Katrina L - DOA <Katrina.Major@wisconsin.gov>
Sent: Friday, January 25, 2013 5:56 PM
To: Malaise, Gordon
Cc: Kraus, Jennifer - DOA
Subject: 0066

Hi Gordon, on this draft, can you please adjust the time frame part of the way through 5p to:

The department shall hold a hearing under s. 227.44 within 90 days unless rescheduled by the petitioner's request, and shall issue a decision within 60 days of the close of the hearing...

Thanks,
k



State of Wisconsin
2013 - 2014 LEGISLATURE

IN 1126



LRB-0066/3 (4)

GMM:cjs:rs RMR

5 stays

DOA:.....Major, BB0187 – Child abuse and neglect appeals

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

do NOT gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

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This bill eliminates the authority of DCF to establish procedures for an appeal of a determination that a specific person has abused or neglected a child. Instead, the bill provides: 1) that if an agency makes an initial determination that a specific person has abused or neglected a child, the agency must provide the person with an opportunity for a review of that initial determination in accordance with rules promulgated by DCF before the agency may make a final determination that the person has abused or neglected a child; and 2) that a person who has been determined to have abused or neglected a child has the right to a hearing on that determination under procedures provided under current law for the administrative and judicial review of a contested case, which is an agency proceeding in which, after a hearing required by law (contested case hearing), a substantial interest of a party is determined by a decision or order.

and issue a final decision within 60 days after
and issue a final decision within 60 days after
the close of the hearing

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Commence

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and shall issue a final decision within 60 days after the close of the hearing

← score

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the hearing is rescheduled on the request of

← score

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SECTION 9306. Initial applicability; Children and Families.

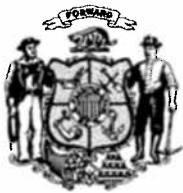
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(END)

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State of Wisconsin

2013 - 2014 LEGISLATURE

(21215)



LRB-0066/4

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Stays

DOA:.....Major, BB0187 - Child abuse and neglect appeals

FOR 2013-2015 BUDGET - NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

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16 proceeding as provided in ch. 227. The person presiding over a contested case
17 proceeding under this subdivision to be held may hold the hearing in abeyance (plain)

18 pending the outcome of any criminal ~~investigation or~~ proceedings or any
19 ~~investigation or~~ proceedings under s. 48.13 based on the alleged abuse or neglect or
20 the outcome of any investigation that may lead to the filing of a criminal complaint
21 or a petition under s. 48.13 based on the alleged abuse or neglect no strike

22 **SECTION 9306. Initial applicability; Children and Families.**

23 (1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The
24 treatment of section 48.981 (3) (c) 5m. of the statutes first applies to a notice under

1 section 48.981 (3) (c) 5m. of the statutes of a determination under section 48.981 (3)
2 (c) 4. of the statutes issued on the effective date of this subsection.

3 **SECTION 9406. Effective dates; Children and Families.**

4 (1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The
5 treatment of section 48.981 (3) (c) 5m. of the statutes and SECTION 9306 (1) of this act
6 take effect on January 1, 2015.

7 (END)



DOA:.....Major, BB0187 – Child abuse and neglect appeals

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a county department of human services or social services or, in Milwaukee County, DCF or a licensed child welfare agency under contract with DCF (collectively “agency”) that investigates a report of suspected child abuse or neglect must determine, within 60 days after receipt of the report, whether abuse or neglect has occurred. If the agency determines that a specific person has abused or neglected the child, the person may appeal the determination in accordance with procedures established by DCF by rule.

This bill eliminates the authority of DCF to establish procedures for an appeal of a determination that a specific person has abused or neglected a child. Instead, the bill provides: 1) that if an agency makes an initial determination that a specific person has abused or neglected a child, the agency must provide the person with an opportunity for a review of that initial determination in accordance with rules promulgated by DCF before the agency may make a final determination that the person has abused or neglected a child; and 2) that a person who has been determined to have abused or neglected a child has the right to a hearing on that determination under procedures provided under current law for the administrative and judicial review of a contested case, which is an agency proceeding in which, after a hearing required by law (contested case hearing), a substantial interest of a party is determined by a decision or order.

Under the bill, to receive a contested case hearing on a determination that a specific person has abused or neglected a child, the person must send to DCF a written request for a contested case hearing within ten days after the date of the notice of the determination. Subject to certain exceptions, DCF then must commence the hearing within 90 days after receipt of the request for the hearing and issue a final decision within 60 days after the close of the hearing. Following the contested case hearing, any party to the proceeding may then obtain judicial review of the final administrative decision in the contested case.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 48.981 (3) (c) 5m. of the statutes is amended to read:

2 48.981 (3) (c) 5m. ~~If the~~ The county department or, in a county having a
3 population of 500,000 or more, the department or a licensed child welfare agency
4 under contract with the department ~~determines~~ may include in a determination
5 under subd. 4. a determination that a specific person has abused or neglected a child,
6 If the county department, department, or licensed child welfare agency, within 15
7 makes an initial determination that a specific person has abused or neglected a child,
8 the county department, department, or licensed child welfare agency shall provide
9 that person with an opportunity for a review of that initial determination in
10 accordance with rules promulgated by the department before the county
11 department, department, or licensed child welfare agency may make a final
12 determination that the person has abused or neglected a child. Within 5 days after
13 the date of the a final determination, that a specific person has abused or neglected
14 a child, the county department, department, or licensed child welfare agency shall
15 notify the person in writing of the determination, the person's right to appeal a
16 contested case hearing on the determination under ch. 227, and the procedure
17 procedures under sub. 5p. by which the person may appeal the determination, and

1 ~~the person may appeal the determination in accordance with the procedures~~
2 ~~established by the department under this subdivision. The department shall~~
3 ~~promulgate rules establishing procedures for conducting an appeal under this~~
4 ~~subdivision. Those procedures shall include a procedure permitting an appeal~~
5 ~~receive that hearing.~~

6 5p. A person determined under subd. 4. to have abused or neglected a child has
7 the right to a contested case hearing on that determination under ch. 227. To receive
8 that hearing, the person must send to the department a written request for a hearing
9 under s. 227.44 within 10 days after the date of the notice under subd. 5m. of the
10 determination. The department shall commence the hearing within 90 days after
11 receipt of the request for the hearing, unless the hearing is rescheduled on the
12 request of the person requesting the hearing or the contested case proceeding is held
13 in abeyance as provided in this subdivision, and shall issue a final decision within
14 60 days after the close of the hearing. Judicial review of the final administrative
15 decision following the hearing may be had by any party to the contested case
16 proceeding as provided in ch. 227. The person presiding over a contested case
17 proceeding under this subdivision to be held may hold the hearing in abeyance
18 pending the outcome of any criminal proceedings or any proceedings under s. 48.13
19 based on the alleged abuse or neglect or the outcome of any investigation that may
20 lead to the filing of a criminal complaint or a petition under s. 48.13 based on the
21 alleged abuse or neglect.

22 **SECTION 9306. Initial applicability; Children and Families.**

23 (1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The
24 treatment of section 48.981 (3) (c) 5m. of the statutes first applies to a notice under

1 section 48.981 (3) (c) 5m. of the statutes of a determination under section 48.981 (3)
2 (c) 4. of the statutes issued on the effective date of this subsection.

3 **SECTION 9406. Effective dates; Children and Families.**

4 (1) CONTESTED CASE HEARINGS ON CHILD ABUSE OR NEGLECT DETERMINATIONS. The
5 treatment of section 48.981 (3) (c) 5m. of the statutes and SECTION 9306 (1) of this act
6 take effect on January 1, 2015.

7 (END)